

The Honorable James L. Robart

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

MICROSOFT CORPORATION, a)
Washington corporation,)
Plaintiff,) CASE NO. C10-1823-JLR
v.) DECLARATION OF KENTON ERWIN IN
MOTOROLA, INC., MOTOROLA) SUPPORT OF NONPARTY VTECH
MOBILITY LLC, and GENERAL) COMMUNICATIONS, INC.'S JOINDER IN
INSTRUMENT CORPORATION,) DEFENDANTS' MOTION TO SEAL
Defendants.) DOCUMENTS AND EXCLUDE
) UNAUTHORIZED PERSONS FROM THE
) COURTROOM

I, Kenton Erwin, declare as follows:

1. I am the General Counsel at VTech Communications, Inc., 9590 SW Gemini Drive, Beaverton, OR 97008.

2. I submit this declaration in support of Nonparty VTech Communications, Inc.'s Joinder in Defendants' Motion to Seal Documents and Exclude Unauthorized Persons From the Courtroom, submitted concurrently herewith. I have personal knowledge of the facts set forth in this Declaration and, if called as a witness, could and would competently testify to them.

3. As General Counsel for VTech, my responsibilities include negotiating VTech's patent licenses. I am thus familiar with VTech's licensing practices and history, as well as the

DECLARATION OF KENTON ERWIN IN
SUPPORT OF NONPARTY VTECH COMMUNICATIONS,
INC.'S JOINDER IN DEFENDANTS' MOTION TO SEAL - 1
NO. C10-1823JLR
#869709 v1 / 01318-002

Law Offices
KARR TUTTLE CAMPBELL
A Professional Service Corporation
1201 Third Avenue, Suite 2900, Seattle, Washington 98101-3028
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1 types of information contained in patent licenses, and with how that information could be used
2 by competitors and prospective negotiation counterparties if disclosed publically.

3 4. On December 1, 2011, VTech (along with related company VTech
4 Telecommunications, Ltd.) entered into a patent cross-license agreement with Motorola
5 Mobility, Inc.

6 5. I understand that the Court has scheduled a trial in this matter, beginning on
7 November 13, 2012, and that the parties may seek to introduce evidence regarding a patent
8 license between Motorola and VTech. I was involved in the negotiation of this license and am
9 familiar with its terms and conditions.

10 6. The terms and conditions of VTech's license with Motorola are not known to
11 the public.

12 7. In recognition of the highly sensitive nature of patent licenses, VTech restricts
13 confidential information regarding licensing terms and conditions. VTech's employees
14 understand the extremely sensitive nature of such information, and understand their duty to not
15 disclose the terms and conditions of these agreements.

16 8. Public disclosure of the terms and conditions of VTech's license with Motorola
17 would cause significant harm to VTech by negatively affecting VTech's future licenses. Public
18 disclosure of these terms would provide asymmetrical power to VTech's competitors and
19 prospective licensing partners. Using their knowledge of the precise substantive and financial
20 terms of previously nonpublic agreements, they would be able to calibrate their negotiation
21 strategies with VTech, thus creating a negotiating imbalance and unfair advantage. This
22 asymmetry of information would result in additional leverage and bargaining power and would
23 lead to an unfair advantage and competitive harm.

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28 DECLARATION OF KENTON ERWIN IN
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1 I declare under penalty of perjury of the laws of the United States and the State of Oregon
2 that the foregoing is true and correct.

3 DATED this 1st day of November, 2012.

4 
5 Kenton Erwin

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CERTIFICATE OF SERVICE

I hereby certify that on November 1, 2012, I electronically filed the foregoing with the Clerk of the Court for the United States District Court for the Western District of Washington by using the appellate CM/ECF system.

I certify that for all parties in the case who are registered as CM/ECF users, service will be accomplished by the CM/ECF System.

Dated: November 1, 2012.

KARR TUTTLE CAMPBELL

s/ Walter E. Barton

Walter E. Barton

For VTech Communications, Inc.

DECLARATION OF KENTON ERWIN IN
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